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Up the Creek

A Supreme Court water case could muddy up Arizona's resources

It's not the kind of U.S. Supreme Court case that rivets the public's attention like abortion, affirmative action or the death penalty.

But a Florida case involving a pumping station at the edge of the Everglades has profound consequences for Arizona and other states that move water for flood control or supply purposes.

The pump moves drainage water from the flood-prone areas of Broward County into the Everglades and has been in operation since 1947. But two years ago, in a lawsuit filed by the Miccosukee Indian tribe, a federal appeals court affirmed a lower-court ruling that the pumping operation required a Clean Water Act discharge permit because the water contained phosphorus and other pollutants.

The pump's operator, the **South Florida Water Management District**, argues that it merely transfers water and is not the source of the contaminants.

Oral arguments before the justices are scheduled for Jan. 14, with a decision expected later in the year.

The implications are huge, particularly for Western states that move water great distances and between basins to meet demands for agricultural, municipal and industrial uses.

Water is moved without permits in Arizona and throughout the West. But were the justices to side with the Miccosukee tribe and require discharge permits, the water may have to be treated, adding considerable costs and delays with no benefit.

Take the case of the Central Arizona Project, Arizona's lifeline from the Colorado River that provides one-third of the state's annual renewable water supplies. Through its system of aqueducts, pumping plants, tunnels and canals, the CAP transports 1.5 million acre feet of water annually to users in Maricopa, Pinal and Pima counties.

The Colorado River is naturally high in salts. Add sediment from snowmelt runoffs and any permit would have to contain conditions to limit the amount of natural pollutants flowing into the receiving body of water.

In other words, CAP water mingled with Agua Fria water in Lake Pleasant behind Waddell Dam would either have to go through a treatment facility or the volume of water would have to be reduced.

The same predicament may apply for recharging water back into the ground downstream from Waddell Dam or for mixing CAP water with flows from the Salt and Verde rivers.

Doug Miller, the general counsel for the Salt River Project, says the cost for salinity reduction alone would be \$300 to \$400 per acre-foot of water - a huge sum "assuming you could do it."

The five-year drought has taken its toll. To add huge costs or limit supply requirements would be in nobody's interests. Cities already treat water to Clean Water Act standards to make it safe for

human consumption. To require that inter-basin transfers meet the standards of the receiving body - whatever it may be - strikes us as a costly and time-consuming remedy to a nonexistent problem.

Permits should be tools for monitoring industrial waste discharges, not for water transfers.